

SUMMARY ANALYSIS OF AMENDED BILL

Author: DeVore/Walters Analyst: Raul Guzman Bill Number: AB 249
 Related Bills: See Prior Analysis Telephone: 845-4624 Amended Date: April 19, 2005
 Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Allow Taxpayers With Total Income Less Than Specified Amount Including Capital Gains To Use Form 540 2EZ

- ____ DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended _____.
- ____ AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.
- ☒ AMENDMENTS DID NOT RESOLVE THE DEPARTMENTS CONCERNS stated in the previous analysis of bill as introduced February 8, 2005.
- ____ FURTHER AMENDMENTS NECESSARY.
- ____ DEPARTMENT POSITION CHANGED TO _____.
- ____ REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED/AMENDED _____ STILL APPLIES.
- ☒ OTHER – See comments below.

SUMMARY

This bill would require the Franchise Tax Board (FTB) to make additional types of income reportable on Form 540 2EZ.

SUMMARY OF AMENDMENTS

The April 19, 2005, amendment added language to specify that “total income,” for purposes of using Form 540 2EZ, would be limited to capital gains generated by mutual funds.

As a result of the amendment, the “This Bill” portion of the analysis as introduced February 8, 2005, has been revised. The department’s concerns as addressed in the prior analysis remain and are included below for convenience. The remainder of the analysis of the bill as introduced February 8, 2005, still applies.

POSITION

Oppose.

On March 29, 2005, the Franchise Tax Board voted 2-0, with the representative from the Department of Finance abstaining, to oppose this bill.

Board Position:

_____ S	_____ NA	_____ NP
_____ SA	<input checked="" type="checkbox"/> O	_____ NAR
_____ N	_____ OUA	_____ PENDING

Legislative Director

Date

Brian Putler

6/3/05

THIS BILL

For purposes of using Form 540 2EZ, this bill would expand “total income” to include capital gains but limited to capital gains generated by mutual funds in addition to taxable wages, dividends, interest, and pension income. As a result, this bill would permit taxpayers who have capital gain income from mutual funds, and who meet other existing filing requirements, to use Form 540 2EZ.

IMPLEMENTATION CONSIDERATIONS

The department has identified the following implementation considerations:

This bill would include capital gains generated by mutual funds as part of “total income”; however, the bill is silent as to how the Form 540 2EZ would allow for reporting capital gain or loss adjustments or capital losses as well as how the netting of capital gains and losses would be done.

Assuming that the intent of the bill is to allow the netting of gains and losses from mutual funds, then the following should be considered. In situations where there are differences, taxpayers would use a separate schedule to determine their California capital gain or loss adjustment. Use of schedules is inconsistent with the purpose of the Form 540 2EZ.

Since the bill indicates that only the gross amount of the capital gain be reported on Form 540 2EZ, a new line to report the capital gains would need to be added to Form 540 2EZ. If taxpayers report capital gains, other than from mutual funds or losses, they would have to complete a different tax form than Form 540 2EZ.

TECHNICAL CONSIDERATION

The bill indicates that capital gains “generated by mutual funds” can be reported on Form 540 2EZ. FTB could interpret the new language “generated by mutual fund” to mean the same as “received from a mutual fund.” However, for clarity and to avoid confusion between taxpayers and the department, the author should delete “generated by” and insert “received from.”

ARGUMENTS/POLICY CONCERNS

By limiting capital gain income to income from mutual funds only, this bill could potentially increase the number of taxpayers that could use Form 540 2EZ by 36,000 taxpayers. While permitting a greater number of taxpayers to utilize Form 540 2EZ, this bill would complicate the Form 540 2EZ for the population of taxpayers for whom it was created.

The general policy in favor of conformity of California tax laws with federal tax laws allows the California tax returns to be based on the federal tax returns. If Form 540 2EZ is required to include the reporting of capital gain income from mutual funds, taxpayers would now have a reportable income item on Form 540 2EZ that is not reflected on federal Form 1040EZ.

The changes that would be made to Form 540 2EZ by this bill would cause the form to resemble Form 540A in appearance, functionality, and complexity. Consequently, the simplicity of Form 540 2EZ may be defeated.

Allowing additional taxpayers to use Form 540 2EZ would run counter to FTB's strategic plan by expanding a paper filing option when the department's long-term strategic goal is to encourage taxpayers to e-file. To achieve this goal, FTB tries to expand e-file by adding improvements, services, and options to enhance the taxpayer and tax professional's tax filing experience. This bill could result in thousands of additional taxpayers filing a paper Form 540 2EZ at a time when the department is encouraging electronic filing.

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